

.....



Office of School Improvement  
Field Services Unit

Technical Assistance Packet  
Working with Private Schools

***Title III, Part A – Language Instruction for  
Limited English Proficient and Immigrant Students***

*Providing for Equitable Participation of Private School  
Students, Teachers and Other Educational Personnel*

.....

# Title III: Providing for Equitable Participation of Private School Students, Teachers and Other Educational Personnel

## **Services**

The Title III program is designed to assure speedy acquisition of English language proficiency, assist students to achieve in the core academic subjects, and to assist students to meet State standards. It also provides immigrant students with high quality instruction to meet challenging State standards, and assists the transition of immigrant children and youth into American society.

For the purposes of determining the equitable amount of program funds to be made available for services to private school Limited English Proficient (LEP) and Immigrant children, the following procedures must be implemented:

- Send a letter to private schools in your geographic area after the beginning of the year (January or February) detailing the following:
  - The public school intends to apply for Title III next school year.
  - State the purpose of the grant.
  - Ask for a count of LEP and immigrant students in the private school. Private schools should use the same basis for identifying students as the public school For LEP students; it is a Home Language Survey (stand alone or as part of a school registration form) plus an English language proficiency measure. Immigrant student identification is described in the following manner:
    - Are aged 3 through 21;
    - Were not born in any state; and
    - Who have not been attending one or more schools in one or more states for more than 3 full academic years
- Describe the program and services that are based on approximately \$100 per student less 2% administrative costs. The actual amount varies yearly depending on the number of eligible students statewide.
- Invite private schools with eligible students to participate in the planning and development of services including professional development.
- Explain that private school Title III instructional staff must meet the same requirements as public school Title III instructional staff, but that annual student testing and accountability provisions do not apply to private schools (See Statutory and Regulatory requirements in Title III, Part A Resources).

**Consultation (as per Statutory and Regulatory Requirements of the No Child Left Behind Act Title IX, Part E, Sections 9501-9506 and Education Department General Administrative Regulations (EDGAR), Part 76, Sections 76.650-76.662**

After timely and meaningful consultation with appropriate private school officials, local education agencies (LEAs) receiving Title III funds must provide educational services to (LEP children and educational personnel in private schools that are located in the geographic area served by the LEA.

To ensure timely and meaningful consultation, the LEA must consult with appropriate private school officials during the design and development of the Title III program on issues such as:

1. How the LEP children's needs will be identified.
2. What services will be offered.
3. How, where and by whom the services will be provided.
4. How the services will be assessed and how the results of the assessment will be used to improve those services.
5. The size and scope of the services to be provided to the private school children and educational personnel.
6. The amount of funds available for those services.
7. How and when the LEA will make decisions about the delivery of services, including a thorough consideration of the views of the private school officials on the provision of contract services through potential third-party providers.

**Documentation**

Each LEA shall maintain a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred.

- Document the meeting, discussion, process and the final plan which should include:

Required Documentation

Letter of invitation to plan  
Documentation of private school consultation

Suggested Documentation

Minutes of meetings  
Needs assessments used by private schools  
Plan for delivery of service  
Program evaluation process

- LEAs may request documentation, as needed, from private school officials that can help the LEA identify services that may be appropriate to the needs of private school LEP and immigrant students. However, requiring a formal

application may, depending upon its form and content, constitute an administrative barrier that is inconsistent with the LEA's responsibility to ensure equitable participation of private school teachers.

- To meet its general record-keeping responsibility, an LEA should document that: (a) representatives of private schools were informed of the availability of Title III services; (b) the needs of private and public school LEP and immigrant students were identified as part of a district-wide needs assessment; (c) private school officials were consulted and provided an opportunity for input into the planning of the LEA's program activities; and (d) the LEA designed a project that would permit their equitable participation.
- The LEA also should maintain records of its efforts to resolve any complaints made by private school representatives that the LEA that should be serving their LEP and immigrant students are not doing so on an equitable basis.
- Document services: This includes instruction and tutoring of LEP and immigrant students as well as professional development activities participated in by staff. Document the purchase of instructional materials.

### **Allocation**

Funds provided for educational services for private school children and educational personnel must be equal, taking into account the number and educational needs of those children, to the funds provided for participating public school children.

Participation is considered to be equitable if the LEA (1) assesses, addresses and evaluates the needs and progress of public and private school students and educational personnel on a comparable basis; (2) provides, in the aggregate, approximately the same amount of services to students and educational personnel with similar needs; (3) spends an equal amount of funds to serve similar public and private school students and educational personnel; and (4) provides both groups of students and educational personnel equal opportunities to participate in program activities.

For purposes of determining the amount of Title III funds that an LEA must make available for equitable services to private school teachers, students and other educational personnel the LEA must calculate the total LEP and immigrant enrollment of the public school and the private school. This total is divided into the LEAs Title III allocation to generate a per pupil amount (see Title III, Part A Calculation Worksheet in Title III, Part A appendix).

### **Resources**

- Private School Participation Fact Sheet



Office of School Improvement  
Field Services Unit

Technical Assistance Packet  
Working with Private Schools

***Title III, Part A***

*Appendix*



## Title III, Part A Calculation of Private Schools' "Equitable Participation"

Worksheet for School Year \_\_\_\_\_

**STEP 1: List the Private Schools located within your district's boundaries and the number of students eligible for Title III, Part A services:**

Private School	LEP and Immigrant Student Enrollment
	Total

**STEP 2: Determine the amount of the district's Title III allocation. This is the BASE.**

**STEP 3: Divide this BASE by the total of Limited English Proficient (LEP) and Immigrant Students enrolled in the Public School and the Private Schools to produce the "Per-LEP and Immigrant Pupil" amount:**

$$\frac{\text{Title III Allocation (BASE)}}{(\text{Total Private LEP and Immigrant Student Enrollment} + \text{Total Public School LEP and Immigrant Student Enrollment})} = \text{Per LEP and Immigrant Pupil amount}$$

- The Public School's "share" = Per-LEP and Immigrant Pupil amount X Public School's Enrollment
- Each Private School's "share" = Per-LEP and Immigrant Pupil amount X Private School's Enrollment

**NOTE: Turn total count of Private and Public School eligible students into the State.**



Office of School Improvement  
Field Services Unit

Technical Assistance Packet  
Working with Private Schools

***Title III, Part A***

*Resources*



Private School Participation Fact Sheet from the  
U.S. Department of Education's  
Office of English Language Acquisition (06/20/03)  
Private School Participation in Title III Programs

**Authorities**

*No Child Left Behind Act of 2001*, Title IX, Part E, Sections 9501-9506  
Education Department General Administrative Regulations (EDGAR), Part 76,  
Sections 76.650-76.662

**Statutory/Regulatory Requirements**

- After timely and meaningful consultation with appropriate private school officials, local educational agencies (LEAs) receiving Title III funds must provide educational services to limited English proficient (LEP) children and educational personnel in private schools that are located in the geographic area served by the LEA.
- To ensure timely and meaningful consultation, the LEA must consult with appropriate private school officials during the design and development of the Title III program on issues such as:
  1. How the LEP children's needs will be identified;
  2. What services will be offered;
  3. How, where, and by whom the services will be provided;
  4. How the services will be assessed and how the results of the assessment will be used to improve those services;
  5. The size and scope of the services to be provided to the private school children and educational personnel;
  6. The amount of funds available for those services;
  7. How and when the LEA will make decisions about the delivery of services, including a thorough consideration of the views of the private school officials on the provision of contract services through potential third-party providers.
- Title III services provided to children and educational personnel in private schools must be equitable and timely and address their educational needs.
- Funds provided for educational services for private school children and educational personnel must be equal, taking into account the number and educational needs of those children, to the funds provided for participating public school children.
- Title III services provided to private school children and educational personnel must be secular, neutral, and non-ideological.



- LEAs may serve private school LEP children and educational personnel either directly or through contracts with public and private agencies, organizations, and institutions.
- The control of funds used to provide services and the title to materials and equipment purchased with those funds must be retained by the LEA.
- Services for private school children and educational personnel must be provided by employees of the LEA or through a contract made by the LEA with a third party.
- Providers of services to private school children and educational personnel must be independent of the private school and of any religious organization, and the providers' employment or contract must be under the control and supervision of the LEA.
- Funds used to provide services to private school children and educational personnel must not be commingled with non-Federal funds.

### **Frequently Asked Questions**

#### **What is meant by "equitable" participation by public and private school students and educational personnel in a Title III program?**

Participation is considered to be equitable if the LEA (1) assesses, addresses, and evaluates the needs and progress of public and private school students and educational personnel in the same manner; (2) provides, in the aggregate, approximately the same amount of services to students and educational personnel with similar needs; (3) spends an equal amount of funds to serve similar public and private school students and educational personnel; and (4) provides both groups of students and educational personnel equal opportunities to participate in program activities.

#### **What recourse is available if an LEA will not use its Title III funds to provide equitable services to private school children and educational personnel?**

Complaints about an LEA's failure to provide equitable services to private school children and educational personnel must first be submitted to the State educational agency for resolution. The State's resolution or failure to make a resolution may be appealed to the U.S. Department of Education. If an LEA is prohibited by State law from providing for the participation in Title III programs of eligible children or teachers or other educational personnel from private elementary and secondary schools on an equitable basis, or if the Secretary determines that an LEA has substantially failed or is unwilling to provide for such participation as required by Section 9501, the Secretary waives the requirements of that section and arranges for the provision of

services by another entity. In making the determination to bypass an LEA, the Secretary considers one or more factors, including the quality, size, scope, and location of the program and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

To implement the bypass, the Department generally enters into a contract with a third party, awarded in accordance with the Federal Acquisition Regulations (FAR) and deducts funds from the SEA's Title III allocation in the States where the bypassed LEAs are located. Accordingly, the SEA reduces the allocations of the bypassed LEAs. The Department administers any bypass contract in accordance with the FAR.

**Are States required to include participating private school students in the annual assessment of English language proficiency?**

No. States are not required to include participating private school students in the annual assessment of English language proficiency. If an LEA provides services to private school students, the LEA must, through timely consultation with private school officials, determine how those students will be assessed for English language proficiency and how the results will be used to improve services to the participating private school students.

**Do State English language proficiency standards and annual measurable achievement objectives apply to participating private school students?**

No. A State's English language proficiency standards and annual measurable achievement objectives do not apply to private schools or their students. However, they apply to all public schools and public school students served under Title III.

**Must private schools report the results of English language proficiency assessments to the LEA?**

No. Private schools with children participating in programs funded under Title III are not required to report assessment results. Officials from the LEA and the private school must reach an agreement about how the results of the assessments will be used to improve services to the participating private school students.

**Is a private school required to monitor and report on the academic progress of private school students for two years after the students are no longer receiving services under Title III?**

No. Officials from a private school are not required to monitor or report on the academic progress of private school students who are no longer receiving services under Title III.

**Does the Title III requirement on language qualifications for teachers providing Title III services to public school students apply to teachers providing these services to private school students?**

Yes. Like teachers serving public school LEP students, teachers providing Title III services to private school students, whether LEA employees or third-party contract employees, are subject to the requirement that teachers in a Title III program must be fluent in English and any other language used for instruction.